

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In Re: Adam C. Marcial,
Debtor.

Case No. 21-44258-mlo
Hon. Maria L. Oxholm
Chapter 13

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**DEBTOR'S OBJECTION TO CLAIM OF NEWREZ LLC
D/B/A SHELLPOINT MORTGAGE SERVICING (CLAIM NO. 8)**

Debtor, Adam C. Marcial, by and through his counsel, Goldstein, Bershad & Fried, P.C., for his objection to claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8), states:

1. A proposed Order granting this objection is attached as Exhibit A.
2. Debtor filed Chapter 13 Bankruptcy on May 14, 2021. The Plan has not yet been confirmed.
3. On June 25, 2021 NewRez LLC d/b/a Shellpoint Mortgage Servicing filed a Proof of Claim in the amount of \$259,344.40 for a mortgage on Debtor's primary residence located at 1373 Brewster Rd., Rochester Hills, MI 48306 stating there was an arrearage of \$3,894.01 as of the petition date.
4. Debtor asserts his account with NewRez LLC d/b/a Shellpoint Mortgage Servicing was current on the date of filing.
5. The attachment to the proof of claim reflects that Debtor is current with his ongoing monthly principle and interest payment to creditor. Therefore, direct pay by the Debtor is justified under 11 U.S.C. 1326 and LBR 3070-1 and 4001-5.
6. The arrearage stated in the claim is for an escrow shortage which is separate and distinct from a mortgage arrearage.
7. The escrow shortage would be addressed in the context of an annual escrow analysis and/or notice of mortgage payment change.
8. Accordingly, the account is current and there is no arrearage owed by the Debtor to NewRez LLC d/b/a Shellpoint Mortgage Servicing.

9. On June 30, 2021, Debtor's counsel reached out to Creditor's counsel to request that the proof of claim be amended to address said objection. To date, no action has been taken.

WHEREFORE, Debtor requests this Honorable Court enter an Order granting Debtor's objection to the claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8) to determine that there is no arrearage and Debtor is current with payments to creditor.

Respectfully submitted,

GOLDSTEIN BERSHAD & FRIED PC

BY: /s/ Aaron J. Scheinfield

Aaron J. Scheinfield P67495
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Dated: July 2, 2021

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**ORDER GRANTING DEBTOR'S OBJECTION TO CLAIM OF
NEWREZ LLC D/B/A SHELLPOINT MORTGAGE SERVICING (CLAIM NO. 8)**

Debtor filed and served a Notice of Objection to Claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8) pursuant to LBR 3007-1 (EDM). A hearing was scheduled for August 9, 2021 at 11:00 a.m. A written response to the objection was not timely served upon Debtor's counsel no later than seven (7) days before the date set for the hearing on the objection. Accordingly, the hearing is canceled and the Court deems that the creditor consents to the relief requested in the objection.

IT IS HEREBY ORDERED:

1. Debtor objection to the claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8) is granted.
2. The arrearage portion of the Proof of Claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8) is zero and Debtor is deemed current with payments to NewRez LLC d/b/a Shellpoint Mortgage Servicing.
3. The Trustee shall not make any disbursements on the arrears portion of the Proof of Claim.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
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**NOTICE OF DEBTOR'S OBJECTION TO CLAIM
OF NEWREZ LLC D/B/A SHELLPOINT MORTGAGE SERVICING (CLAIM NO. 8)**

Debtor, Adam C. Marcial, has filed an objection to your claim in this bankruptcy case.

Your Claim may be reduced, modified or denied. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to deny or change your claim, then on or before a date not later than seven (7) days before the court hearing set below, you or your lawyer must:

1. File with the court a written response to the objection, explaining your position at:
United States Bankruptcy Court
211 West Fort Street, Suite 1700
Detroit, MI 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before seven (7) days before the scheduled hearing date listed below.

2. Mail at copy to:

Tammy L. Terry
Chapter 13 Trustee
535 Griswold, Suite #2100
Detroit, MI 48226

Aaron J. Scheinfield, Esq.
Attorney for Debtor
4000 Town Center, Suite 1200
Southfield, MI 48075

3. Attend a hearing on the objection, scheduled to be held on August 9, 2021 at 11:00 a.m. in Courtroom 1875, United States Bankruptcy Court, 211 W. Fort St., Detroit, MI, unless your attendance is excused by mutual agreement between yourself and the objector's attorney. (Unless the matter is disposed of summarily as a matter of law, the hearing shall be a pre-trial conference only; neither testimony nor other evidence will be received. A pre-trial scheduling order may be issued as a result of the pre-trial conference.)

If you or your attorney do not take these steps, the court may deem that you do not oppose the objection to your claim, in which event the hearing will be canceled, and the objection sustained.

GOLDSTEIN BERSHAD & FRIED PC

BY: /s/ Aaron J. Scheinfield

Aaron J. Scheinfield P67495
Attorneys for Debtor
4000 Town Center, Suite 1200
Southfield, MI 48075
(248) 355-5300
email aaron@bk-lawyer.net

Dated: July 2, 2021

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CERTIFICATE OF SERVICE

I hereby certify that on July 2, 2021, I electronically filed the following papers with the Clerk of the Court using the ECF system which will send notification of such filing to the ECF Participants:

Documents Filed:	Debtor's Objection to Claim of NewRez LLC d/b/a Shellpoint Mortgage Servicing (Claim No. 8), proposed Order, Notice of Objection and this Certificate of Service
ECF Participants:	All parties listed by the Court for service via electronic mailing

And I hereby certify that on July 2, 2021, I mailed the documents by United States Postal Service to the following non-ECF participants:

NewRez LLC
d/b/a Shellpoint Mortgage Servicing
P.O. Box 10826
Greenville, SC 29603

/s/ Jennifer L. Gamalski
Jennifer L. Gamalski
4000 Town Center, Suite 1200
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[Aaron J. Scheinfield P67495
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Dated: July 2, 2021